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16th day of January, 1905, *I shall move the said court to award execution upon the said bond*, in my behalf, against you and each of you, for principal, interest, and costs.

"Dated this third day of January, 1905.

"A. A. DREYSPPOOL,
"By Counsel."

To this motion the defendants appeared by attorney and moved the court to strike the same from the docket, on the ground that the court did not have jurisdiction of a motion for an execution on a bond on which no judgment had been recovered by action or motion. The court overruled the motion to strike out and entered the following order :

"This day came the parties, by their attorneys, and the defendants moved the court to strike the motion from the docket, as the court has not jurisdiction of a motion for an execution on a forthcoming bond, which motion, after consideration, the court overruled ; and it being intimated that an application would be made to the Supreme Court of Appeals for a writ of prohibition to test the court's jurisdiction, the court declines at this time to further proceed in this case."

Whereupon the defendants petitioned the Supreme Court of Appeals of Virginia, praying the said court to declare that the Corporation Court of the city of Newport News had no jurisdiction to award an execution on a forthcoming bond under the statute, and to issue a writ of prohibition, addressed to the Honorable T. J. Barham, judge of said court, and A. A. Dreyspool, prohibiting them from proceeding further in said motion for said execution. The following cases were relied upon : *Newberry v. Sheffey*, 89 Va. 286 ; *Cooper v. Daugherty*, 85 Va. 343 ; *Carter v. Allen*, 32 Gratt. 769 ; *Goolsby v. St. John*, 21 Gratt. 107 ; *Ballard v. Whitlock*, 18 Gratt. 235 ; *Pates v. St. Clair*, 11 Gratt. 22 ; *Hancock v. Whitehall*, 100 Va. 443, 41 S. E. 860.

The Supreme Court refused to grant the writ.

G. C. G.

COLLISION—STEAM AND SAILING VESSELS CROSSING—VIOLATION OF RULES—NEGLIGENT NAVIGATION BY PILOT—RIGHT TO RECOVER COLLISION DAMAGES PAID FROM PILOT.—In *Donald v. Guy et al.* (District Court, E. D. of Va.), 135 Fed. 429, the following is the syllabus :

1. It is the duty of the navigator of a steamer approaching a sailing vessel on a crossing course, under Inland Navigation Rules, arts. 20-23 (30 Stat. 101 [U. S. Comp. St. 1901, p. 2883]), which require the steamer to keep out of the way, and, if necessary to slacken speed, stop, or reverse, to act in time to avoid risk of collision, and he has no right to keep his course and speed on the assumption, or in the expectation, that the sailing vessel will change her tack ; and the presence of a passing steamer, instead of furnishing an excuse for violating the rules, renders their observance and the exercise of precautionary care all the more necessary.

2. The pilot of a steamer having her navigation in charge : *Held*, under the evidence, solely in fault for a collision with a crossing schooner in Chesapeake Bay, for failing to change his course or speed until collision was unavoidable, although the schooner kept her course and speed as required by the rules.

3. The owner of a vessel is not debarred from maintaining a suit against her pilot to recover the amount of damages paid on account of a collision which occurred through the pilot's negligence by the fact that such damages were paid without suit, nor is his right of action barred by laches where suit is commenced within the time allowed by the statute of the state to sue at law on similar claims.

LIBEL AND SLANDER—NEWSPAPER ARTICLE.—A false article published concerning plaintiff, making her the heroine of a fictitious story concerning an alleged proposed marriage: *Held* libelous *per se*.—*Kirman v. Sun Printing and Publishing Co.*, 91 N. Y. Supp. 193.

LIBEL AND SLANDER—QUESTION FOR JURY.—Where the language of a libel is susceptible of construction rendering it defamatory, and of a construction rendering it innocent, it was a question for the jury.—*Lauder v. Jones*, N. Dak. 101, N. W. 907.

DIVORCE—DESERTION.—Failure of a husband to supply his wife with necessities: *Held*, not to authorize her to leave him and sue for divorce for desertion.—*Farrier v. Farrier*, N. J., 58, Atl. 1079.

CONTRACT OF MARRIAGE—FAILURE TO PERFORM.—Where one of the parties to a marriage contract fails to perform his agreement at the time fixed for the ceremony, no reasonable excuse existing for such failure, it is: *Held*, in *Wanack v. Kratky* (Neb.), 66 L. R. A. 798, that the other party may rescind the contract and maintain an action for damages. The other authorities on refusal or failure to keep agreement for marriage at a specified time or place as breach of the marriage contract are collated in a note to this case.

OYSTERS—TITLE, OWNERSHIP, AND POSSESSION—THINGS SUBJECT TO OWNERSHIP AS PROPERTY.—Under a statute, the plaintiff and defendant enjoyed perpetual franchises of adjoining tracts under the waters of Long Island Sound for purposes of shell fish cultivation. The plaintiff, supposing the defendant's land to be his own, deposited oyster shells upon it so that young oysters in the free-swimming larval stage became attached to the shells and developed into marketable oysters. The defendant having taken these oysters was sued for conversion: *Held*, That the plaintiff can recover, as the property is in him.—*Vroom v. Tilly*, 91 N. Y. Supp. 51.

Whether property in oysters is governed by the general law of original acquisition and disseisin of chattels or by its special branch relating to wild animals has been a puzzling question. Oysters have been variously regarded as being analagous to: (1) animals *feræ naturæ*; (2) inanimate personalty; (3) *feræ naturæ* until taken, and thereafter inanimate chattels; (4) emblements. See (1) *McCarty v. Holman*, 22 Hun (N. Y.) 53; (2) *State v. Taylor*, 27 N. J. Law 117; cf. (3) *Fleet v. Hegeman*, 14 Wend. (N. Y.) 42; (4) *Huffmire v. City of Brooklyn*, 22 N. Y. (App. Div.) 406. This interesting case seems to test the nature of the property right. Whatever the status of adult oysters, the free-swimming form